

Date of Hearing: September 9, 2015

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Sebastian Ridley-Thomas, Chair
AB 990 (Bonilla) – As Amended August 20, 2015

CONCURRENCE IN SENATE AMENDMENTS

ASSEMBLY: (May 14, 2015) SENATE: 32-8 (September 2, 2015)

(vote not relevant)

SUBJECT: Political Reform Act of 1974: advertisement disclosures.

SUMMARY: Increases the size and prominence of disclosure statements that are required to appear on certain campaign advertisements.

The Senate amendments delete the Assembly version of the bill, and instead:

- 1) Require an advertisement supporting or opposing a candidate that is paid for by an independent expenditure (IE) to comply with the following:
 - a) That the following specific phrasing be used for the disclosure statement that is required to appear on the advertisement pursuant to existing law:

"This advertisement was not authorized or paid for by a candidate for this office or a committee controlled by a candidate for this office."
 - b) If the advertisement is mailed, that the statement comply with all of the following:
 - i) Be located within one-quarter of an inch of the recipient's name and address as printed on the advertisement;
 - ii) Be contained in a box that has an outline with a line weight of at least 3.25 points, and the outline is in a contrasting color to the background color of the advertisement and of the background color of the box;
 - iii) The background color of the box contrasts with the background color of the advertisement; and,
 - iv) The text of the statement is in a contrasting color to the background color of the box.
- 2) Increase the minimum size of disclosure statements that are required to be printed on specified campaign advertisements pursuant to existing law from 10-point to 14-point, and require the statements to be printed in bold, sans serif type font.
- 3) Make corresponding changes.
- 4) Add an urgency clause, allowing this bill to take effect immediately upon enactment.

EXISTING LAW:

- 1) Creates the Fair Political Practices Commission (FPPC), and makes it responsible for the impartial, effective administration and implementation of the Political Reform Act (PRA).
- 2) Requires any advertisement for or against a ballot measure to include a disclosure statement identifying the two largest contributors whose cumulative contributions are \$50,000 or more, as specified.
- 3) Requires a committee that supports or opposes one or more ballot measures to name and identify itself using a name or phrase that clearly identifies the economic or other special interest of its major donors of \$50,000 or more. Provides that if the major donors of \$50,000 or more share a common employer, the identity of the employer shall also be disclosed. Requires a committee which supports or opposes a ballot measure to print or broadcast its name as required by these provisions as part of any advertisement or other paid public statement.
- 4) Requires an advertisement supporting or opposing a candidate or ballot measure that is paid for by an IE to include a disclosure statement that identifies both of the following:
 - a) The name of the committee making the IE.
 - b) The names of the persons from whom the committee making the IE has received its two highest cumulative contributions of \$50,000 or more during the 12-month period prior to the expenditure, as specified.
- 5) Requires an advertisement supporting or opposing a candidate that is paid for by an IE to include a statement that it was not authorized by a candidate or a committee controlled by a candidate.
- 6) Requires specified advertisements for or against a ballot measure that include individuals who have been paid for their appearance to include a disclosure statement stating “(spokesperson’s name) is being paid by this campaign or its donors” in highly visible Roman font.
- 7) Requires specified advertisements for or against a ballot measure that include individuals who have been paid for their appearance, and that states or suggests that the individual is a member of an occupation that requires licensure, certification, or other specialized training, to include a disclosure statement stating “Persons portraying members of an occupation in this advertisement are compensated spokespersons not necessarily employed in those occupations” in highly visible Roman font.
- 8) Requires the disclosure statements outlined above to be printed clearly and legibly in no less than 10-point type and in a conspicuous manner as defined by the FPPC. Provides, pursuant to FPPC regulation, that a disclosure statement on printed materials designed to be distributed personally or thorough the mail shall be printed in a contrasting color to the

background on which it appears.

- 9) Defines "advertisement," for the purposes of the disclosure requirements outlined above, as any general or public advertisement which is authorized and paid for by a person or committee for the purpose of supporting or opposing a candidate for elective office or a ballot measure or ballot measures. Provides that "advertisement" does not include a communication from an organization other than a political party to its members, a campaign button smaller than 10 inches in diameter, a bumper sticker smaller than 60 square inches, or other advertisement as determined by regulations adopted by the FPPC.
- 10) Defines "independent expenditure," for the purposes of the PRA, as an expenditure made by any person in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage, or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election, but which is not made to or at the behest of the affected candidate or committee.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

- 1) **Prior Assembly Consideration of This Measure:** As approved by the Assembly in May, this bill would have required the Department of Public Health to include information regarding the increased risk of breast cancer associated with obesity in any literature the Department produced regarding breast cancer. Subsequent to the Assembly's approval of this measure, it was amended in the Senate to delete the Assembly-approved provisions of the bill, and to add the current provisions to increase the size and prominence of disclosure statements that are required to appear on certain campaign advertisements. As a result, this bill has been re-referred to this committee for further consideration pursuant to Assembly Rule 77.2.
- 2) **Purpose of the Bill:** According to the author:

Campaign spending has significantly increased with the advent of [IEs]. In California, IE spending reached \$32 million leading up to the 2014 General Election. Throughout election season, mailboxes are flooded with mailers. In recent elections, there were reports of families receiving upwards of 200 pieces of mail. When voters receive an overwhelming amount of advertisements from outside interest groups, in addition to advertisements from candidates, it is difficult for the voter to distinguish who is responsible for each message.

The quantity and negative messaging of mailers has not only confused voters, but it has frustrated some to the point of not wanting to vote. During recent elections, the Contra Costa County Clerk/Recorder-Registrar heard from numerous upset voters. Community members voiced their displeasure in candidates for the amount of mailers they were receiving. Although outside spending reached record

highs, voters incorrectly attributed all mailers to the candidates.

The Political Reform Act requires all advertisements to include a statement detailing who paid for the advertisement. Current law requires the disclosure statement to be printed clearly, in no less than 10-point font, and in a contrasting color. However, disclosure statements are easily overlooked because they are in small font and often hidden at the bottom of advertisements.

AB 990 updates the way disclosure statements are displayed in order to increase the likelihood that voters see the statement and properly attribute the campaign messaging. AB 990 increases the font size and requires the disclosure to be printed inside an outlined box. The box must be a contrasting color to the background of the advertisement and the text must be in a contrasting color to the box. Additionally, the statement must be located within one quarter of an inch from the recipient's name and address on the advertisement. AB 990 will make it simple for voters to notice and read the disclosure statement providing greater transparency in our state's elections.

- 3) **Existing Disclosure Statement Requirements:** As outlined above, the PRA requires specified campaign advertisements to contain certain disclosure statements, with the specific disclosure that is required varying depending on the type of advertisement, the type of committee that pays for the advertisement, and the medium used to convey the advertisement. Certain advertisements that are paid for by IEs, and certain advertisements supporting or opposing ballot measures, are required to include a disclosure that identifies the two largest contributors of \$50,000 or more to the committee that pays for the advertisement, as specified. Advertisements that feature paid spokespeople may be required to include a statement disclosing that fact. Certain ballot measure committees are required to name themselves in a manner that discloses the economic or other special interest of the major contributors to the committee, and are required to include that committee name on advertisements paid for by the committee. Finally, an advertisement supporting or opposing a candidate that is paid for by an IE must include a statement that the advertisement was not authorized by a candidate or a committee controlled by a candidate.

The disclosure statements outlined above, when required on a non-electronic printed advertisement, generally must be printed in at least 10-point type (disclosure statements on advertisements on over size print media, such as yard signs and billboards, generally must appear in larger type). For other types of advertisements, including video, audio, and electronic text or graphic advertising, the disclosure statement must be presented in a "clear and conspicuous manner," as specified pursuant to regulations adopted by the FPPC.

This bill increases the minimum size of the disclosure statements detailed above, when those statements appear on a non-electronic printed advertisement, from a minimum of 10-point type to a minimum of 14-point type. Additionally, this bill requires such disclosure statements to be printed in bold, sans serif type font. Although the author's statement above focuses on IEs, these requirements apply to all of the disclosure statements outlined above, including disclosure statements on advertisements that are not paid for by IEs.

Additionally, for the purposes of the existing requirement that an advertisement supporting or opposing a candidate that is paid for by an IE include a statement that the advertisement was not authorized by a candidate or a committee controlled by a candidate, this bill requires the following exact language to be used for the disclosure statement: "This advertisement was not authorized or paid for by a candidate for this office or a committee controlled by a candidate for this office." For those IEs, if delivered through the mail, the disclosure statement would also be required to be located within one-quarter of an inch of the recipient's name and address and be contained in a box that has an outline with a line weight of at least 3.25 points.

For illustration purposes, the following is printed in a 10-point Times New Roman type font which would comply with current law:

This advertisement was not authorized by a candidate or a committee controlled by a candidate.

By contrast, the following disclosure statement uses the specific language that would be required by this bill, is written in 14-point Arial font (an example of a sans serif type font), and is placed in a box similar to the one that would be required on IEs that support or oppose candidates:

This advertisement was not authorized or paid for by a candidate for this office or a committee controlled by a candidate for this office.

- 4) **Political Reform Act of 1974:** California voters passed an initiative, Proposition 9, in 1974 that created the FPPC and codified significant restrictions and prohibitions on candidates, officeholders and lobbyists. That initiative is commonly known as the PRA. Amendments to the PRA that are not submitted to the voters, such as those contained in this bill, must further the purposes of the initiative and require a two-thirds vote of both houses of the Legislature.

REGISTERED SUPPORT / OPPOSITION:

Support

Contra Costa County Clerk-Recorder/Registrar of Voters (sponsor)
California Clean Money Campaign

Opposition

None on file.

Analysis Prepared by: Ethan Jones / E. & R. / (916) 319-2094